

ASSEMBLY BILL

No. 1960

**Introduced by Assembly Members Pavley and Frommer
(Coauthors: Assembly Members Chu, and Ridley-Thomas)**

February 12, 2004

An act to add Article 8 (commencing with Section 4130) to Chapter 9 of Division 2 of the Business and Professions Code, relating to pharmacy benefits management.

LEGISLATIVE COUNSEL'S DIGEST

AB 1960, as introduced, Pavley. Pharmacy benefits management.

Existing law, the Pharmacy Law, creates the California State Board of Pharmacy and makes it responsible for the regulation and licensure of persons engaged in pharmacy practices relating to the furnishing of dangerous drugs, as defined. Under existing law, a violation of the provisions of the Pharmacy Law is a crime.

This bill would define the term “pharmacy benefits management” as negotiating the purchase of dangerous drugs on behalf of specified entities and administering or managing the prescription drug benefit programs of those entities. The bill would also define the term “pharmacy benefits manager” as an entity that performs pharmacy benefits management. The bill would impose on that entity a fiduciary duty to the person employing or contracting with the entity.

Because the bill would specify an additional requirement under the Pharmacy Law, a violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Article 8 (commencing with Section 4130) is added to Chapter 9 of Division 2 of the Business and Professions Code, to read:

Article 8. Pharmacy Benefits Management

4130. “Pharmacy benefits management” means negotiating the purchase of dangerous drugs on behalf of an entity that provides health care services, including a health care service plan or a health insurer, or an entity that purchases those services and administering or managing the prescription drug benefit program provided or purchased by those entities. The administration or management of a prescription drug benefit program includes all of the following:

(a) Providing mail pharmacy services.

(b) Claims processing, managing a retail network, and paying claims to a pharmacy for dangerous drugs dispensed to an enrollee or insured.

(c) Rebate contracting and administering the rebates.

(d) Therapeutic intervention and generic substitution programs.

(e) Disease management programs.

4131. A “pharmacy benefits manager” means an entity that performs pharmacy benefits management and includes a person or entity acting for a pharmacy benefits manager in a contractual or employment relationship in the performance of pharmacy benefits management.

4132. A pharmacy benefits manager owes a fiduciary duty to the person who contracts with, or employs, the pharmacy benefits manager.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CORRECTIONS
Heading — Authors.

